

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MINNESOTA
3
4 FAIR ISAAC CORPORATION,
5 Plaintiff,
6
7 v. Court File No. 16-cv-1054 (WMW/DTS)
8 FEDERAL INSURANCE COMPANY,
9 an Indiana corporation, and ACE
10 AMERICAN INSURANCE COMPANY,
11 a Pennsylvania corporation,
12 Defendants.
13

14 VIDEO DEPOSITION
15
16 The following is the video deposition of
17 RANDOLPH BICKLEY WHITENER, taken before Jean F.
18 Soule, Notary Public, Registered Professional
19 Reporter, pursuant to Notice of Taking Deposition,
20 at the law office of Fredrikson & Byron, P.A.,
21 200 South Sixth Street, Suite 4000, Basswood
22 Conference Room, Minneapolis, Minnesota, commencing
23 at 8:56 a.m., Thursday, June 27, 2019.
24

25 * * *

26 C O N F I D E N T I A L
27
28 ATTORNEYS' EYES ONLY

EXHIBIT
42

1 Q. This is your first time?	1 the attorneys here to prepare for your deposition?
2 A. That is correct.	2 A. No. Unless you count the conversation
3 Q. Okay. Tell me, what did you do to	3 with my wife, which said, hey, would you pretty
4 prepare for your deposition today?	4 please book me for a plane ticket to, or with the
5 A. At this point, I believe you are	5 associate at Merchant & Gould, whose name I do not
6 asking me the types of research I did, I believe	6 know, that made the hotel arrangements for me.
7 you are asking me the types of documents I looked	7 Q. Okay. What are your opinions in this
8 at; is that correct?	8 matter?
9 Q. I'm asking you what you did to prepare	9 A. My opinions in this matter only relate
10 for your deposition today?	10 to the qualitative use of software in the property
11 A. Aah.	11 casualty writing of insurance policies process, be
12 Q. Yes.	12 that writing new business or renewal, and how
13 A. A different question. Thank you. I	13 software can help in the quote, bind, book, issue
14 mounted a plane in the great State of Alabama, flew	14 process that I articulate in the reports.
15 to the great State of Minnesota, and I met with the	15 Q. Okay. So that is what your opinion in
16 attorneys present.	16 this matter relates to, correct?
17 Q. Okay.	17 A. That is what my professional opinion
18 A. I have also reviewed --	18 in this matter relates to, and what my report and
19 MR. HINDERAKER: You don't have to	19 the rebuttal speak to.
20 reveal any communications or the work product of	20 Q. Okay. And what is the opinion that
21 meetings with lawyers since you came to Minnesota.	21 you provide in this litigation?
22 BY MS. JANUS:	22 A. My opinion is that automated decision
23 Q. Okay. And continue with your answer?	23 software and business rules management systems do,
24 A. Then I will -- that will suffice.	24 in fact, contribute to creation of revenue through
25 Q. Okay. And so you reviewed documents?	25 the three primary vehicles an insurance company
Page 7	
1 A. Yes.	1 uses to pursue growth, and those are speed, speed
2 Q. Okay. Which documents did you review	2 comes in two flavors, there are -- then there is
3 to prepare for your deposition?	3 ease of doing business, and then there is precision
4 A. I reviewed the original report I	4 of price.
5 wrote, dated 4-19; I have reviewed the response to	5 Q. How does automated decision software
6 the other expert witness's rebuttal of my report,	6 contribute to the creation of revenue, in your
7 that's dated 5-31; and I reread the RFI published	7 opinion?
8 by Chubb in February of 2006, I believe it was.	8 A. In my opinion, automated decisioning
9 Q. Did you do anything else or review any	9 improves speed in two ways. The first one is it
10 other materials to prepare for your deposition?	10 improves the speed of response, in terms of requests
11 MR. HINDERAKER: And, again, my	11 for quotes or in terms of processing rules. The
12 direction not to disclose the communications and	12 second is it improves the ease of doing business by
13 the work that you did in Minnesota with lawyers.	13 requiring less effort on behalf of an agent and
14 THE WITNESS: As I reread my report,	14 broker and, thereby, on behalf of their customer,
15 if I saw a footnote -- you will recall my report is	15 the applicant or policyholder, and it provides
16 highly footnoted -- and I wanted to refresh my	16 precision in pricing in that it makes sure that the
17 visual view of that document, I opened it up to	17 adequate accurate information is available to the
18 refresh my memory.	18 underwriting process and can provide, in fact, I
19 BY MS. JANUS:	19 will call it statistical actuarial guidance into
20 Q. So you looked at some of the documents	20 what the needed adequate accurate premium is for
21 that are cited in your footnotes?	21 the risk.
22 A. That is correct.	22 Q. And that statistical guidance, how
23 Q. Okay. Anything else?	23 does it provide statistical guidance?
24 A. No.	24 A. It will look at the attributes of
25 Q. Did you speak with anyone other than	25 the -- I will refer to it as the application, the
Page 8	
Page 9	

<p>1 prospective risk, and it will say -- it will go 2 through a statistical model, a set of algorithms 3 that come back and say for this set of risk 4 characteristics you need X amount of premium to 5 cover the cost of the raw materials, the 6 manufacturing cost, the administrative cost, 7 et cetera.</p> <p>8 Q. Now, is your opinion in this matter 9 generally about automated decision software?</p> <p>10 A. No.</p> <p>11 MR. HINDERAKER: Objection to the 12 extent the question is vague.</p> <p>13 BY MS. JANUS:</p> <p>14 Q. You can go ahead and answer.</p> <p>15 A. My decision is based on the value of 16 automated decision software and, then, Blaze as the 17 selected automated decision software tool.</p> <p>18 Q. Okay. You provided some testimony 19 about the speed, the ease of doing business, the 20 precision of price, right?</p> <p>21 A. Correct.</p> <p>22 Q. Do you have an opinion as to those 23 matters specifically in this case?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. What is that?</p>	<p>1 processing faster, does it make speed of bringing 2 new product to market faster, does it improve the 3 ability of the company in its underwriting process 4 to better define the, quote unquote, accurate and 5 precise price.</p> <p>6 Q. So you're talking about whether 7 automated decision software makes certain decisions 8 at an insurance company faster, correct?</p> <p>9 A. Not sure I understand the question.</p> <p>10 Q. You said that the quantitative 11 evaluation assesses whether the software makes the 12 speed of transactional processing faster?</p> <p>13 A. Agree.</p> <p>14 Q. Right? And whether it makes the speed 15 of --</p> <p>16 A. Agree.</p> <p>17 Q. -- new products faster?</p> <p>18 A. Agree.</p> <p>19 Q. Okay. But you have not measured 20 whether, in fact, the automated decision software 21 makes those functions faster, correct?</p> <p>22 A. That is correct. I will, however, 23 point to you that I have a significant amount of 24 gray hair and 41 years of experience, and I saw 25 this at other companies, other insurance companies</p>
<p>Page 11</p> <p>1 A. As I stated before, automated decision 2 software improves all three of those aspects of the 3 quote, bind, book, issue process, and Federal chose 4 Blaze Advisor®, and Blaze Advisor contributed to 5 those three things on behalf of Federal.</p> <p>6 Q. Did you measure what contribution you 7 believe Blaze had to the three things you've 8 mentioned?</p> <p>9 A. I used the term attributes.</p> <p>10 Q. Attributes?</p> <p>11 A. And that was not within the scope of 12 my responsibilities.</p> <p>13 Q. What do you mean by that?</p> <p>14 A. What is not clear about it? My -- my 15 responsibilities, as are articulated, were to 16 provide a qualitative evaluation of decision -- the 17 automated decision software and, then, Blaze 18 Advisor as that chosen automated decision software. 19 I have never been asked to provide an assessment of 20 any quantitative numbers.</p> <p>21 Q. So when you say "qualitative 22 evaluation," explain for someone who is not in your 23 industry or has your background, what do you mean 24 by that?</p> <p>25 A. Does it make speed of transactional</p>	<p>for which I worked and -- no, I'll close there.</p> <p>2 Q. You also said that your qualitative 3 analysis is that automated decision software 4 improves the ability to define accurate --</p> <p>5 A. Ade -- adequate precise premium.</p> <p>6 Q. Adequate precise premium. But you did 7 not measure in this case whether Blaze Advisor 8 improved that ability to define accurate and 9 adequate price?</p> <p>10 A. I will reiterate my earlier statement. 11 I was not asked to provide any quantitative 12 analysis of any aspects of this case.</p> <p>13 Q. So the answer to my question is no?</p> <p>14 A. Correct.</p> <p>15 (Whereupon, Deposition Exhibit No. 513 16 was marked for identification, and a copy is 17 attached and hereby made a part of this deposition.)</p> <p>18 BY MS. JANUS:</p> <p>19 Q. Showing you what's been marked as 20 Deposition Exhibit 513, do you recognize 21 Exhibit 513?</p> <p>22 A. I recognize the front page and the 23 back page as the beginning and the ending of the 24 report I created.</p> <p>25 Q. Okay. Take a look at the document</p>

<p>1 itself and let me know when you've satisfied 2 yourself that it's a copy of your initial report in 3 this matter. 4 (Reporter's Note: The witness is 5 reviewing Exhibit No. 513 for approximately two 6 minutes.) 7 THE WITNESS: [Witness coughing] 8 Pardon me. 9 (Reporter's Note: The witness 10 continues reviewing Exhibit No. 513 for 11 approximately five more minutes.) 12 THE WITNESS: Finished. 13 BY MS. JANUS: 14 Q. Okay. Is that the expert report that 15 you initially submitted in this matter? 16 A. I will agree that upon cursory review 17 this does appear to be an entirety. But, being the 18 precise underwriter that I have been for so many 19 years, until I laid your copy, your soft copy of 20 the document and my soft copy of the document and 21 ran a compare, I would not agree that it's exactly 22 the same. 23 Q. Okay. My question for you is, is 24 Exhibit 513 a copy of the initial expert report you 25 submitted in this matter?</p>	<p>1 that it's not the expert report. If you're 2 representing to us that it is, and I assume that 3 you are, then let's proceed forward with 513. 4 MS. JANUS: Okay, sounds good. 5 BY MS. JANUS: 6 Q. So we'll proceed forward with 7 Exhibit 513 being a copy of the initial expert 8 report you submitted in this matter, fair? 9 A. Fair. 10 Q. Okay. I'm going to hand you a copy of 11 Exhibit 514. 12 (Whereupon, Deposition Exhibit No. 514 13 was marked for identification, and a copy is 14 attached and hereby made a part of this deposition.) 15 BY MS. JANUS: 16 Q. Do you recognize Exhibit 514? 17 A. Again, I recognize the first page and 18 the last page as the pages of 514 that I submitted 19 to Merchant & Gould, I will be happy to review this 20 document in a similar fashion, if you would like. 21 Q. Yes. I would like to know whether the 22 Exhibit 514 is a copy of the reply expert report 23 you submitted in this matter? 24 (Reporter's Note: The witness is 25 reviewing Exhibit No. 514 for approximately three</p>
<p>Page 15</p> <p>1 A. And my answer is it appears to be. 2 Q. Excellent. All right. Do you have 3 any reason to think that Exhibit 513 is not a copy 4 of the initial expert report you submitted in this 5 matter? 6 A. I am a witness for plaintiff, you are 7 counselor for the defense. That leaves a question. 8 I have no reasonable belief, based on my cursory 9 review of the document, that it is incorrect. But 10 I will not absolutely state that it is because I 11 haven't taken it through the due diligence process 12 I normally take things through. 13 MS. JANUS: Okay. Did you come, 14 Mr. Hinderaker, with a copy of Mr. Whitener's 15 expert report today? 16 MR. HINDERAKER: Sure. 17 MS. JANUS: Okay. Can we mark that 18 as -- 19 MR. HINDERAKER: No, you can't mark -- 20 MS. JANUS: -- Exhibit 514? 21 MR. HINDERAKER: No, you cannot mark 22 my working copy as Exhibit -- we can -- 23 MS. JANUS: Would you -- I mean -- 24 MR. HINDERAKER: We have no -- as he 25 just said, there's no -- there's no reason to think</p>	<p>1 minutes.) 2 THE WITNESS: Ready. 3 BY MS. JANUS: 4 Q. Okay. Does Exhibit 514 appear to be a 5 copy of your reply expert report submitted in this 6 matter? 7 A. It does appear to. 8 Q. All right. Let's start with 9 Exhibit 513, which is your initial report. On 10 page 1, you state that you are being paid \$200 an 11 hour for your work in this matter? 12 A. That is correct. 13 Q. And how much have you billed to date 14 for your work in this matter? 15 A. On a rounded to thousands basis, 16 \$167,000. 17 Q. In Information Considered, you note 18 that you had a discussion with Bill Waid on 19 November 12th, 2018, correct? 20 A. That is correct. 21 Q. Is that the only discussion you had 22 with anyone other than the attorneys at 23 Merchant & Gould to form the conclusions that 24 you've reached in this matter? 25 A. At the time of the writing of this</p>

<p>1 demonstration that was specific to the insurance 2 industry, for instance?</p> <p>3 A. That is correct.</p> <p>4 Q. Okay. And he didn't give you a 5 demonstration that had anything to do with Federal's 6 use of Blaze?</p> <p>7 A. Also --</p> <p>8 Q. Correct?</p> <p>9 A. Also correct.</p> <p>10 Q. Blaze out of the box does not have any 11 rules in it, correct?</p> <p>12 A. That is correct, to the best of my 13 understanding. The art -- the artifacts don't give 14 me enough information to really know what Federal 15 and what Blaze had at the beginning.</p> <p>16 Q. Your understanding is that Blaze, as a 17 software tool, does not have any specific subject 18 matter, for instance?</p> <p>19 A. That is correct.</p> <p>20 Q. Correct? It does not import any 21 expertise in any industry, correct?</p> <p>22 A. I disagree with that.</p> <p>23 Q. Does it have any rules out of the box 24 relating to the insurance industry, for example?</p> <p>25 MR. HINDERAKER: I'm going to -- my</p>	<p>1 mentioned that he showed you how to concatenate 2 rules; is that right?</p> <p>3 A. Yes, concatenate.</p> <p>4 Q. Concatenate?</p> <p>5 A. Yeah.</p> <p>6 Q. And what do you mean by that?</p> <p>7 A. Well, in the world that I live in, in 8 the underwriting world, rarely do you make decisions 9 based on one single data element, you consider 10 multiple. So he showed me how to have the 11 individual rules interact with each other.</p> <p>12 So the -- so if you have three rules, 13 the first rule could be based on an and statement, 14 so it's inclusive, but then the next two rules 15 could be based on an or statement, meaning it's one 16 or the other. That's what I mean.</p> <p>17 Linked the rules might be a better 18 word than concatenate, but --</p> <p>19 Q. To link, did you say?</p> <p>20 A. Yes.</p> <p>21 Q. And he showed you how to create rules, 22 you said?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And how is that done, how is -- 25 what is your understanding of how you create rules?</p>
<p>1 only objection is to the phrase "out of the box," 2 which is vague and inaccurate.</p> <p>3 BY MS. JANUS:</p> <p>4 Q. Do you know what I mean by out of the 5 box?</p> <p>6 A. I know what I believe out of the box 7 means. I have no idea what you mean.</p> <p>8 Q. Okay. What do you interpret out of 9 the box to mean?</p> <p>10 A. Let's -- let's go to a personal 11 computer example, because most people understand 12 that. You buy shrink-wrap software. Let's pretend 13 that it's Microsoft Office. You cut the shrink 14 wrap, take out the disk, you load the software, and 15 it has only the executable code in it, it contains 16 no data.</p> <p>17 So, if that's the definition of out of 18 the box, I suspect, but do not know, that Federal 19 received a out-of-the-box version of Blaze Advisor.</p> <p>20 Q. And, essentially, what you've 21 described as when it first received or downloaded 22 Blaze Advisor from FICO, we'd characterize that as, 23 essentially, out of the box?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Going back to the demo, you've</p>	<p>1 A. I -- I believe you are giving me way 2 too much credit for my memory from the demo. I'm 3 not sure I can describe that.</p> <p>4 It's a -- it's -- it has the -- it has 5 the ability for you to say this is the name of a 6 rule, and the criteria for that rule it has to 7 be -- and I'm going to -- it has to be not sand and 8 gravel, trucking companies.</p> <p>9 Q. Okay. And speaking about Blaze 10 generally now, is it your understanding that the 11 rules that are put into Blaze come from the 12 business expertise of the entity that's using 13 Blaze?</p> <p>14 A. I'm not quite sure what you mean by 15 the phrase "put into."</p> <p>16 Q. Okay. Well, what would -- how would 17 you describe the rules in Blaze?</p> <p>18 A. As I -- as I articulate in the report, 19 there is -- there is -- it's a multistep process. 20 So there's creation of the rules, and based on the 21 artifacts, the rules were created by the -- the 22 definition of the rules. Okay. We will not write 23 sand and gravel trucks, as an example, was created 24 by Federal. But then there's the writing of the 25 rule into the software. Artifacts indicate that</p>

1 that was a combined effort between both FICO and 2 Federal. And then there's a third part of the 3 process, which I articulate in the -- mostly in 4 the -- in the reply report, which is, then there's 5 execution of the rules. 6 Q. All right. So let's start with the 7 creation of the rules, and you said that the 8 definition of the rules comes from Federal? 9 A. Yes.	1 of me when I worked for one of the other insurance 2 companies? Because I have many labels, and to say 3 that I take one specifically, I think, would be 4 erroneous on my part. 5 Q. Okay. 6 A. I do have underwriting experience, 7 yes.
8 Q. How would you characterize the 9 importance of underwriting to the insurance industry? 10 A. As I articulate in my report, 11 underwriting is one of three items that I could use 12 the term core competency for. In my report, I -- I 13 refer to it as have to excel. Insurance companies 14 have to excel at underwriting, and I articulate the 15 underwriting process as the three steps, you 16 acquire adequate accurate information, you draft a 17 proposal including price that would be adequate for 18 that risk exposure, and then you -- you work to 19 reach an agreement on it or decide you can't get 20 the adequate price based on the definition of the 21 proposal and you walk away from it.	10 Q. And you mentioned just now that 11 underwriting criteria are the rules, correct? 12 A. One of the interesting things about 13 the insurance industry is our nomenclature. So, if 14 you say the word endorsement to me, that can mean 15 three or four different things. In underwriting, 16 some companies refer to it as the underwriting 17 rules, some companies refer to it as the 18 underwriting guidelines, some companies refer to it 19 as the underwriting criteria.
17 Q. Okay. So let's start with the 18 creation of the rules, and you said that the 19 definition of the rules comes from Federal? 20 A. Yes. In fact, may I go to -- may I go 21 to the core competency argument? I -- 22 Q. I'd like just an answer to my question 23 in the first instance. I think I've got it. 24 A. Okay.	22 Q. And you mentioned just now that 23 underwriting criteria are the rules, correct? 24 A. One of the interesting things about 25 the insurance industry is our nomenclature. So, if 26 you say the word endorsement to me, that can mean 27 three or four different things. In underwriting, 28 some companies refer to it as the underwriting 29 rules, some companies refer to it as the 30 underwriting guidelines, some companies refer to it 31 as the underwriting criteria.
32 Q. The definition of the rules comes from 33 an insurance company's experience, correct? 34 A. That plays a role in it. 35 Q. It necessarily depends upon the 36 experience and expertise of the people who work at 37 the company, correct? 38 A. That's part of it. 39 Q. It depends upon the processes that are 40 used by the company in writing insurance, correct? 41 A. I disagree with that. 42 Q. Why is that? 43 A. I interpret the word process to mean 44 execution. Okay. Processes can be easily changed. 45 Underwriting criteria, rules, are less easily 46 changed. So -- so when you talk about the process, 47 the process, to me, is just simply execution. 48 Q. And you've referenced already today 49 your experience in underwriting? 50 A. That is correct.	40 Q. The definition of the rules comes from 41 an insurance company's experience, correct? 42 A. That plays a role in it. 43 Q. It necessarily depends upon the 44 experience and expertise of the people who work at 45 the company, correct? 46 A. That's part of it. 47 Q. It depends upon the processes that are 48 used by the company in writing insurance, correct? 49 A. I disagree with that. 50 Q. Why is that? 51 A. I interpret the word process to mean 52 execution. Okay. Processes can be easily changed. 53 Underwriting criteria, rules, are less easily 54 changed. So -- so when you talk about the process, 55 the process, to me, is just simply execution. 56 Q. And you've referenced already today 57 your experience in underwriting? 58 A. That is correct.
59 Q. Would you consider yourself an 60 underwriter, is that how you would describe 61 yourself? 62 A. Can you time frame that for me? Is 63 that a description of me today or a description of 64 me when I worked for The Hartford or a description 65 of me when I worked for one of the other insurance 66 companies? Because I have many labels, and to say 67 that I take one specifically, I think, would be 68 erroneous on my part. 69 Q. Okay. 70 A. I do have underwriting experience, 71 yes.	60 Q. Would you consider yourself an 61 underwriter, is that how you would describe 62 yourself? 63 A. Can you time frame that for me? Is 64 that a description of me today or a description of 65 me when I worked for The Hartford or a description 66 of me when I worked for one of the other insurance 67 companies? Because I have many labels, and to say 68 that I take one specifically, I think, would be 69 erroneous on my part. 70 Q. Okay. 71 A. I do have underwriting experience, 72 yes.

1 overview. 2 Q. Okay. I take it in your work as an 3 underwriter, your expertise, your personal 4 expertise was important to the performance of your 5 underwriting duties? 6 A. Yes. 7 Q. Your personal judgment was crucial in 8 the performance of your underwriting duties, correct? 9 A. Yes. 10 Q. Would you say your expertise and 11 judgment in underwriting were the most important 12 aspects of your success as an underwriter? 13 A. No. 14 Q. What was? 15 A. I -- I do not undervalue the 16 importance of that expertise. However, that is one 17 part of a Rubik's Cube. 18 So my ability to have a high level 19 of -- are you familiar with the phrase EQ, emotional 20 quotient, and be able to interface with a very, 21 very diverse agency plant and then a very, very 22 diverse group of people inside of the agency plant 23 in combination with various other departments, such 24 as claims, loss control, marketing, and my peers in 25 other underwriting departments, such as bond and	1 admin system? 2 A. Multiple admin policy systems. 3 Q. But you did not use the policy admin 4 system as an underwriter? 5 A. This was 1977, that is correct. 6 Q. Did you as an underwriter define rules 7 that were used by The Hartford to underwrite 8 insurance? 9 A. At what point in time? 10 Q. Any point in time? 11 A. Yes. 12 Q. Okay. When did you do that? 13 A. That would have been when -- pardon 14 me. That would have been when I was now back -- 15 back up in home office, excuse me, and had come 16 back to the underwriting department from the 17 planning department. 18 Q. Do you have a rough time period on 19 that? 20 A. Um, I believe I came back from the 21 planning department in late nineteen eighty -- yes, 22 '84, yeah, give or take a century. 23 Q. And we'll go through the experience 24 that you've listed. But just in general terms, 25 what was your role in creating rules that were used
Page 47 1 commercial lines, was very important. That's one 2 of the reasons I like the underwriting, because you 3 actually have your hands in so much of the business. 4 Q. So you're -- you said emotional 5 quotient? 6 A. Yes. 7 Q. And do you sometimes refer to that as 8 emotional intelligence? 9 A. Some people do. 10 Q. Okay. 11 A. When I grew up, it was EQ. Now it's 12 EI. 13 Q. Okay. And that -- 14 A. But it's the same thing. 15 Q. Same thing, okay. And so your EQ or 16 EI was crucial to your success as an underwriter? 17 A. Agreed. 18 Q. Okay. Did you use technology as an 19 underwriter with The Hartford? 20 A. Define technology, please. A 21 Monroe -- a Monroe JD-30 calculator is technology. 22 I had a Monroe JD-30 calculator on my desk. Okay. 23 Did I interface and type into the policy admin 24 system? No. 25 Q. Okay. So The Hartford had a policy	Page 49 1 in the underwriting process? 2 A. We would have an annual review. So, 3 at this point, I was in what was called the line of 4 business. Today you would know it as the product 5 department, and we would -- we would have an annual 6 review using multiple data sources, actuarial data, 7 profit and loss statements for our various products 8 by jurisdiction, and that jurisdiction was down 9 into the individual rating territory, and we would 10 look and we would see if we wanted to modify our 11 rules, add rules, subtract rules, change from 21 to 12 25, change from sand and gravel to U-Haul vans, 13 kind of a thing. 14 Q. So you looked at the data that you had 15 based on past performance, correct? 16 A. I'm not -- I'm not sure I understand 17 the question. 18 Q. Well, you described -- 19 A. As it relate -- as it relates to my 20 time at The Hartford? 21 Q. Yes. 22 A. Okay. Now restate the question, 23 please. 24 Q. Okay. So you -- you -- you were 25 describing the process of creating rules when you

<p>1 were at the Hartford?</p> <p>2 A. Yes.</p> <p>3 Q. And it sounds to me like you would</p> <p>4 look at the data from past performance for a given</p> <p>5 product; is that correct?</p> <p>6 A. As long as you put an "S" on the end</p> <p>7 of it, that's correct, products.</p> <p>8 Q. Products.</p> <p>9 A. Yeah.</p> <p>10 Q. Okay. And -- and then you, based on</p> <p>11 your expertise and experience as an underwriter,</p> <p>12 would decide whether to change the rules that were</p> <p>13 in place, keep them the same, add rules, et cetera?</p> <p>14 A. Yeah.</p> <p>15 Q. Okay.</p> <p>16 A. Yes.</p> <p>17 Q. And where did those rules reside when</p> <p>18 you were at The Hartford?</p> <p>19 A. In keeping with Mr. McCarter's reply</p> <p>20 or rebuttal of my report, they were hard coded in</p> <p>21 Cobalt.</p> <p>22 Q. For someone who is not in the</p> <p>23 industry, what does hard coded in Cobalt mean?</p> <p>24 A. Programmed in a language that</p> <p>25 insurance companies would prefer not to use today</p>	<p>1 requirement," what do you mean?</p> <p>2 A. It is the responsibility of the</p> <p>3 business unit to articulate what they want the</p> <p>4 technology to do. That articulation is called a</p> <p>5 business requirement.</p> <p>6 Q. So your role was really on the</p> <p>7 substantive development of the rules?</p> <p>8 A. I don't understand the question,</p> <p>9 substantive development of the rules.</p> <p>10 Q. The defining of the rules?</p> <p>11 A. It was not limited to that, but I did</p> <p>12 do that, yes.</p> <p>13 Q. Okay. I take it you would agree that</p> <p>14 there's a substantial amount of value to the</p> <p>15 insurance company in defining the rules?</p> <p>16 A. I disagree with that statement in</p> <p>17 isolation. There is a high value to an insurance</p> <p>18 company in defining the rules and having the -- I'm</p> <p>19 going to call it processes in place that make sure</p> <p>20 the rules are executed. There's a difference</p> <p>21 between defining the rules and executing the rules.</p> <p>22 Q. Okay. The defining of the rules comes</p> <p>23 from the expertise of the underwriters and the</p> <p>24 other business people at the insurance company,</p> <p>25 correct?</p>
<p>1 in modern technology times. So Cobalt is a</p> <p>2 progra -- programming language, and I -- I could not</p> <p>3 go up to a computer with a technologist at any</p> <p>4 insurance company and have them bring up on their</p> <p>5 screen Cobalt programming language and decipher</p> <p>6 what's going on. I don't -- I don't write or speak</p> <p>7 Cobalt.</p> <p>8 Q. So you don't know exactly how Cobalt</p> <p>9 works?</p> <p>10 A. That is correct. I know -- I know</p> <p>11 what my responsibility was, was to define the new</p> <p>12 rules that we wanted to implement, the existing</p> <p>13 rules that we wanted to modify or any rules that we</p> <p>14 wanted to take out of the production system and</p> <p>15 write the business requirement for it, make sure</p> <p>16 that the business requirement was testable -- that,</p> <p>17 by the way, requires a conversation with the IT</p> <p>18 folks -- and then rely on my IT compatriots to</p> <p>19 implement the rule, test it and make sure it was</p> <p>20 doing as prescribed.</p> <p>21 I would have -- if the -- if the IT</p> <p>22 people had any questions about the test results,</p> <p>23 they would come see me, but I was not heavily</p> <p>24 involved in the testing.</p> <p>25 Q. When you say "the business</p>	<p>1 A. Correct. Inside of the insurance</p> <p>2 company's organizational construct where defining</p> <p>3 the rules is their responsibility.</p> <p>4 Q. And if --</p> <p>5 A. That could be -- it could be product,</p> <p>6 it could be underwriting, it depends.</p> <p>7 Q. You would agree with me that if the</p> <p>8 rules are not defined properly, the insurance</p> <p>9 company will not make money, correct?</p> <p>10 A. I will agree with you that if the</p> <p>11 rules do not reflect accurately the company's risk</p> <p>12 appetite and their definition of acquiring adequate</p> <p>13 accurate premium, the result of that will be losing</p> <p>14 money on those policies.</p> <p>15 Q. So, without good rules, an insurance</p> <p>16 company cannot make money, correct?</p> <p>17 A. That is part of the scenario, correct.</p> <p>18 Q. Well, you'd agree with me, I take it,</p> <p>19 as an experienced underwriter that it's the most</p> <p>20 important part of the scenario, correct?</p> <p>21 A. Again, I don't agree with that,</p> <p>22 because I believe you are not accounting for the</p> <p>23 fact that after the rules are authored they have to</p> <p>24 be executed, and one of our -- one of every</p> <p>25 insurance company's processes is the consistent</p>

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<p>1 weekly, monthly, quarterly, annually review of the 2 quality of the decisions their underwriters are 3 making. Not all underwriters are created equal. 4 In a best case scenario, I would agree 5 with your statement. If every underwriter were an 6 A-plus player, I would agree that. 7 Q. Okay. If -- 8 A. Every underwriter is not an A-plus 9 player. 10 Q. So people, differences in people can 11 make a difference in whether the right rules are 12 implemented in the right way, fair? 13 A. Fair. 14 Q. But without the right rules, without 15 good rules developed by the insurance company, the 16 insurance company is not going to make any money, 17 correct? 18 A. I would say that without the right 19 rules, using your nomenclature, the expected 20 performance will be less than if you started the 21 process with the right rules. 22 Q. I mean, we could easily play this out 23 to say if an insurance company had a rule that 24 consistently caused it to issue policies to 25 businesses that had claims that far exceeded the</p>	<p>1 Whereas, the folks that they have underwriting 2 their main street commercial -- my phraseology, not 3 theirs -- could potentially have a slightly less 4 level of expertise. But I generally describe the 5 insurance industry as a complex business. 6 Q. There's lots of judgment involved in 7 the insurance industry? 8 A. There is judgment involved in every 9 industry. There is judgment involved in the 10 insurance industry and the underwriting process 11 because it's pegged to acquire adequate accurate 12 information and adequate premium for the loss cost. 13 You remember the phrase loss cost? Okay. Loss 14 cost, there can be some judgment involved in that. 15 I worked for the president of an 16 insurance once -- company once who looked at me and 17 said -- actually looked at one of my friends and 18 said, I can have the most actuarially accurate 19 policy -- or, I'm sorry, price point in the world 20 and not sell a single policy. Okay. 21 So there -- depending upon the market 22 segment, the product, the industry classification, 23 there can be relatively more or relatively less -- 24 I'm sorry, your term -- judgment in the process, 25 and that judgment is reflected in both the field</p>
<p>Page 55</p> <p>1 premiums those businesses paid, that would not be a 2 good rule, correct? 3 A. It would not be a good thing, and 4 they, clearly, would not be good rules, singular or 5 plural. 6 Q. The definition of those rules would 7 cause the insurance company to lose money in that 8 scenario that I described? 9 A. Allow me to reiterate. The 10 performance would be less, depending upon the 11 variability of acquiring the correct adequate 12 accurate premium for the lost cause, it could be a 13 small loss, it could be a large loss. It could be 14 less profit depending upon in that range. 15 Insurance is a numbers game. 16 Q. Would you agree that underwriting 17 insurance policies is a complex process? 18 A. Is this a general question about 19 insurance? Then I would say it is a complex 20 business. I would say underwriting can be more 21 complex based on the -- you've read my report, I 22 describe market segments, based on the market 23 segment. So, for instance, Federal's specialty 24 unit, I would suspect, but don't know, that their 25 underwriters have a higher level of expertise.</p>	<p>Page 57</p> <p>1 people interfacing with the agency plant and in 2 the -- and I'm going to use the word product 3 instead of underwriting, because that's -- tends to 4 be a more common phraseology nowadays, those 5 underwriting product people in the definition of 6 the rates, rules and forms for the product. 7 Remember, my experience definition of insurance 8 product is rates, rules and forms. 9 Q. All right. Looking back at the 10 report, you -- we talked about your experience 11 underwriting, you also talk about financial 12 management, correct? 13 A. That is correct. 14 Q. And -- 15 A. A better phrase for that might be 16 financial reporting. 17 Q. Financial reporting, okay. 18 And that experience did not include a 19 expertise in technology, correct? 20 A. Correct. 21 Q. So -- 22 A. Although I will -- I will quite 23 frankly say that every number that hit my desk came 24 from a -- from a technology system, but I accepted 25 the data as it was and believed that the technology</p>

1 A. Said in isolation, that's a correct
2 statement. But, remember, I will -- I will always
3 be taking you back to the Rubik's Cube, it's not
4 just one thing.

5 Q. You said the quality the product is
6 another factor that determines whether a consumer
7 will purchase an insurance product, correct?

8 A. Correct.

9 Q. And we talked about the development of
10 insurance products previously, correct?

11 A. Yes.

12 Q. Those are developed using the expertise
13 of that insurance company, the individuals'
14 knowledge who work there and possibly in
15 consultation with insurance experts, correct?

16 A. Correct.

17 Q. And you also mentioned the value
18 received in connection with the quality of the
19 product, correct?

20 A. Correct.

21 Q. Essentially does the consumer believe
22 that they are paying a fair price for the product
23 they're purchasing?

24 A. There are approximately 328 million
25 humans in the United States. The number of

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1 unquote, expert advice. Okay. And, then, the
2 broker is looking at the company for the things I
3 have articulated earlier. The broker, in the
4 relationship with the consumer, will have an opinion
5 about who that broker wants to do business with.

6 Q. So personal relationships between the
7 consumer and the broker and the broker and the
8 insurance company affect decisions about whether to
9 purchase a particular product?

10 A. And affect differently across the
11 three market segments I've articulated.

12 Q. You've said, then, finally, remittance
13 processing?

14 A. Billing.

15 Q. Billing? Okay.

16 A. Well --

17 Q. And how --

18 A. The -- the great thing about
19 remittance processing it's an all-encompassing
20 term. Billing insinuates that it's the demand from
21 the insurance company going out to the consumer or
22 the customer. But when that money comes back in,
23 it's got to be placed in the right bucket. Okay.

24 So I refer to it as remittance
25 processing. It's that all-encompassing ask for

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1 businesses is not nearly that large, but it's
2 significant. Each of those will establish in their
3 own mind their definition of value.

4 So it's impossible to specifically
5 answer your question. As a general observation,
6 the value is defined by each customer, be it
7 commercial or personal, and it's a combination of
8 things.

9 Q. You mentioned the relationship with
10 the broker?

11 A. Or independent agent.

12 Q. And by that, do you mean the
13 consumer's relationship with the broker or the
14 independent agent?

15 A. I mean both. So you have three
16 parties, correct? So at the left end of the
17 spectrum you have the consumer, be it business or
18 be it personal. At the right end of the spectrum
19 you have the insurance company, and in the middle
20 you have the independent agent or broker. The
21 consumer will primarily focus on the relationship
22 with the independent agent or broker.

23 You will see articles published about
24 expert advice. So the consumer is looking at that
25 broker or independent agent as a provider of, quote

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1 money, get money, put it in the right place.

2 Q. Okay. And how does that in your mind,
3 how does that impact a consumer's decision to
4 purchase an insurance product?

5 A. There are two impacts here. So the
6 first one is, remember, zero times X is zero. So
7 the -- the independent agent -- an independent
8 agent's relationship with any insurance company can
9 be soured if, in fact, the remittance processing
10 process is inefficient or inaccurate.

11 The one thing from -- so I'm going to
12 speak to billing, and I'm going to speak to claims.
13 Okay. One thing an independent agent never wants
14 is for one of their customers to be billed
15 incorrectly, and one thing the insurance company
16 doesn't want is to pay too little or too less on an
17 occurrence. So the insurance company -- I
18 articulate this in my report. The insurance
19 company wants every penny that it's entitled to,
20 not one penny that it is not.

21 The policyholder, when you get to
22 remittance processing, you are playing with their
23 budget and their financial bank statements, and
24 they don't like errors. It's as simple as that.

25 Q. We've been talking about what goes

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1 into a consumer's decision to purchase a given
2 insurance product. I take it you'd agree with me
3 that if an insurance company uses Blaze in some
4 aspect of the process to underwrite an insurance
5 product for a particular customer, that the use of
6 Blaze in and of itself would not influence that
7 customer's decision to purchase the product, would
8 you agree with that?

9 **A. I agree that the direct consumer, be**
10 **it a business or a family entity, personal lines,**
11 **does not see or care about any of the technologies**
12 **that an insurance company takes to -- I'm going to**
13 **use the word fulfill, fulfill its insurance**
14 **process, be it policy issuance, be it claims, be it**
15 **billing. The consumer is oblivious to that. I**
16 **probably would --**

17 MR. HINDERAKER: Go ahead, finish your
18 answer.

19 THE WITNESS: I probably would not
20 make the same statement for the broker.

21 BY MS. JANUS:

22 Q. So the consumer that you referred to
23 does not care whether Federal uses Blaze in any of
24 its processes in connection with selling or
25 administering a given insurance policy, fair?

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1 MR. HINDERAKER: I'm going to object
2 to the argumentative nature of that. He was trying
3 to answer --

4 MS. JANUS: No, no, no, no, don't
5 coach him, don't coach him.

6 MR. HINDERAKER: I'm not.

7 MS. JANUS: Al, I'll stop you there.

8 MR. HINDERAKER: Fine.

9 MS. JANUS: Let's not get into that.

10 It was a fair question, it wasn't argumentative.

11 MR. HINDERAKER: And you --

12 MS. JANUS: I want an answer.

13 MR. HINDERAKER: I was just trying to
14 say, he was trying to answer that question. So let
15 him finish his answer, please.

16 MS. JANUS: Please don't raise your
17 voice with me.

18 MR. HINDERAKER: Oh, I wasn't --

19 MS. JANUS: And stop coaching the
20 witness. As soon as I get to a question you don't
21 like, you start coaching. Okay.

22 MR. HINDERAKER: I --

23 MS. JANUS: Let's stop it now. He's
24 your expert, he should be able to handle it.

25 MR. HINDERAKER: I like your --

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1 MR. HINDERAKER: The question
2 misstates the answer, and I object for that reason.

3 THE WITNESS: May I answer?

4 MS. JANUS: Yes.

5 THE WITNESS: Or respond?

6 MR. HINDERAKER: Yes, you may.

7 THE WITNESS: Okay. Thank you. Just
8 asking for the rules.

9 The consumer cares that the value
10 proposition, a combination of coverages, exclusions
11 and price, meet their needs and their expectation.
12 Okay. The insurance company cares that the -- oh,
13 and, I'm sorry, I need to put speed in there. All
14 right. So -- so if you look at speed of response
15 and you look at adequacy of price in combination
16 with the proposed package, the consumer cares about
17 that. The broker --

18 BY MS. JANUS:

19 Q. I'm sorry, let me just stick with my
20 question for a moment. I want to make sure I've
21 got an answer to my question.

22 I asked you whether you would agree
23 that the consumer does not care that Federal may
24 use Blaze as a part of its complex processes to
25 issue or underwrite a particular insurance product?

1 MS. JANUS: All right. I'm going to --
2 MR. HINDERAKER: I like -- I liked
3 your question.

4 MS. JANUS: I'm going to --

5 MR. HINDERAKER: And I'd like him to
6 have a chance to answer.

7 BY MS. JANUS:

8 Q. I'm going to ask my question again,
9 and I'd like an answer to it, and I think -- I
10 think your previous answers pretty obviously
11 suggest this. I just want to make it clear on the
12 record, as I'm entitled to do, I'm entitled to
13 create the record.

14 You would agree with me, I take it,
15 based on your previous testimony, that a consumer
16 making a decision to purchase an insurance product
17 from Federal does not care whether or not Blaze was
18 used at any point in the process of selling or
19 underwriting that insurance product, correct?

20 **A. Correct.**

21 Q. You would agree with me that, in fact,
22 a consumer making a decision to purchase an
23 insurance product from Federal does not know that
24 Blaze was used at any point in the process in
25 selling or underwriting that product, correct?

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1 A. The consumer is oblivious to any of
2 the tools the insurance company uses to construct,
3 deliver and fulfill their products. They don't
4 want to know.
5 Q. And there are many, many tools that an
6 insurance company uses to do that, correct?
7 A. I've never seen an insurance company
8 have less than three. To say many, I can't speak
9 to that.
10 Q. There are many technologies that an
11 insurance company -- let's talk about Federal.
12 Federal uses many, many technologies in conducting
13 its business, correct?
14 A. Yes.
15 Q. Blaze is one technology that Federal
16 uses, correct?
17 A. Pardon me. That is correct.
18 Q. Is it fair to say that to the extent
19 Blaze is used by Federal it's in the background,
20 correct?
21 A. From whose perspective?
22 Q. The consumer's.
23 A. Correct.
24 Q. It is a back office issue, correct?
25 A. It is a back office issue that creates

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1 can, in fact, be, as Mr. McCarter pointed out, the
2 raw arithmetical, it's one of -- and off the top of
3 my head I don't remember his number, let's say a
4 thousand, it's one of a thousand technologies.

5 That is irrelevant in my opinion. I'm
6 not measuring, I'm not evaluating, I'm not trying
7 to quantify the impact of the overall footprint of
8 a company. I'm evaluating the value -- the
9 qualitative value of a software in executing the
10 insurance process.

11 Q. Let's go back to your background. We
12 talked about product development. You also list
13 product management?

14 A. Yes.

15 Q. What -- what does that refer to?

16 A. Do you recall my description of the
17 insurance product as rates, rules and forms?

18 So, in product management, for a
19 specified jurisdiction for a period of time, a
20 defined period of time, and for the departments of
21 insurance that regulate the insurance industry, my
22 responsibility was management of -- I'll use the
23 management term, management of the definition of
24 the rates, rules and forms within my scope of
25 geographic regulatory and agent responsibilities.

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1 things about which the consumer greatly cares.
2 Q. Unbeknownst, its use is unbeknownst to
3 the consumer, correct?
4 A. The consumer is not concerned about
5 how those three things are created, they're just
6 concerned that those three things exist.
7 Q. You would agree with me that Federal
8 does not market or sell Blaze, correct?
9 A. Excuse me. Yes. I -- I would agree
10 that I have no indication that they do that or have
11 any interest in doing that.
12 Q. You would agree with me that Blaze is
13 just one part of Federal's IT infrastructure,
14 correct?
15 A. As I articulate in my reply to
16 Mr. McCarter's report, it is one of many
17 technologies. But my job was not to value the
18 size of -- not value -- to evaluate qualitatively
19 the size of Federal's technology footprint, but it
20 is one of many.
21 Q. So you did not conduct an analysis of
22 how significant a part of Federal's IT infrastructure
23 Blaze is?
24 A. Significant is an ambiguous word.
25 There are multiple ways to find that. One -- one

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1 Q. So the focus of product management is
2 not technology, correct?

3 A. Uh, correct.

4 Q. You also did general (field operations)
5 management?

6 A. Also correct.

7 Q. And is -- what is general (field
8 operations) management?

9 A. General (field operations) management
10 is -- may -- may I couch this in terms of Federal?

11 MR. HINDERAKER: Sure.

12 THE WITNESS: Okay. Federal makes
13 reference to their underwriters who are out in the
14 field and the fact that they had three centers.

15 Okay. I was a manager of all of the service people
16 and all of the processors and about 90 percent of
17 the underwriting function inside of an office. So
18 we were the interface to the agent. We were the
19 ones where the new business applications arrived on
20 those people's desks.

21 BY MS. JANUS:

22 Q. The focus of your general (field
23 operations) management was not technology, correct?

24 A. I struggle to answer this one,
25 respectfully. I -- I -- I respectfully point out

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1 consistency and greater agility as efficiencies? 2 MR. HINDERAKER: Objection, asked and 3 answered. 4 THE WITNESS: The document does state 5 that those things come from the efficiency of 6 automation. 7 BY MS. JANUS: 8 Q. Is it fair to say that the -- in your 9 opinion, the value that Blaze provides to a company 10 is realized through efficiencies? 11 A. Absolutely not. 12 Q. Well, the values that you've 13 identified here you are referring to as efficiencies, 14 correct? 15 A. Automation makes speed improve. 16 Improved speed increases the probability that you 17 will have opportunities to quote, that you will 18 convert quotes, and that you will then execute the 19 book -- the bind and the book and the issue part of 20 the process. Increased precision and consistency 21 insures, a) that you eliminate variability from the 22 decisions, the judgment in underwriters, and 23 increased precision improves the probability that 24 your adequate accurate premium is sellable in the 25 marketplace.	1 A. I believe not. I can go back and 2 check very rapidly. 3 Q. That's your word? 4 A. I'm sorry? 5 Q. That's your word, efficiencies? 6 A. I chose to write that, yes. 7 Q. Okay. 8 A. Twelve. 9 Q. All right. The next sentence of 10 paragraph 29 says the "Use of Blaze Advisor enables 11 an insurance company to increase the volume and 12 accuracy of transactions in an efficient manner," 13 correct? 14 A. It does. 15 Q. Again, you're referring to the 16 efficiencies that you opine are gained from using 17 Blaze Advisor, correct? 18 MR. HINDERAKER: Objection, 19 misstatement. 20 THE WITNESS: In isolation, that 21 sentence does, in fact, reference efficiency. 22 Efficiency is one of the three components that I 23 articulate in my report. 24 BY MS. JANUS: 25 Q. Efficiency is the -- in your opinion,
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1 Q. Okay. And so let's talk about the
2 speed. So your first bullet point is "Increasing
3 speed of response to quote requests," correct?
4 A. **That is correct.**
5 Q. How did you conclude that Federal
6 increased the speed of response to quote requests?
7 A. I did not conclude that Federal
8 increased that. I concluded that inside of the
9 approximately 1,000 insurance companies that
10 transact property casualty business, they are all
11 looking to do things faster, and it's widely
12 recognized that responding to quotes faster
13 increases quote conversion.
14 Q. Okay. Do you know whether Blaze
15 increased the speed of response to quote requests
16 in Federal?
17 A. I performed no quantitative analysis
18 in this process, no. I do not know.
19 Q. The next bullet point is "Increasing"
20 the "speed of making renewal offers," correct?
21 A. **Correct.**
22 Q. How did you conclude -- or I'm -- Did
23 you conclude that Federal increased the speed of
24 making renewal offers because of its use of Blaze?
25 A. I did no qualitative research or

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1 Q. Okay. But you don't know whether
2 there was an actual increase in speed at Federal in
3 which new products were introduced to the market,
4 correct?
5 A. **Correct, within the caveat of the**
6 **artifacts do state -- and today, in this specific**
7 **instance, I'm thinking about the premium**
8 **modernization project, that they were able to**
9 **acquire a, I believe, \$20 million book of business**
10 **through the acquisition process from Star Aviation,**
11 **and they needed Blaze Advisor execution of the**
12 **premium modernization product to be able to book**
13 **that premium.**
14 Q. Premium -- premium modernization
15 product?
16 A. **Yes. It's one of the non-policy admin**
17 **deployments of Blaze Advisor inside of defendant.**
18 Q. And this is a document that you cite
19 in support of your conclusion that there's
20 increasing speed?
21 A. **I can't speak to that. I -- I would**
22 **have to go back and check the documents.**
23 Q. Is it fair to say that you simply
24 don't know whether there was increased speed at
25 Federal in which new products were introduced due

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1 **definition inside of my report.**
2 MR. HINDERAKER: Did you mean
3 quantitative or qualitative?
4 THE WITNESS: I'm sorry. Quali --
5 quanti -- I didn't -- I did zero quantitative
6 research. I -- I didn't have any numbers.
7 BY MS. JANUS:
8 Q. So you just don't know whether Federal
9 increased the speed of making renewal offers
10 because of its use of Blaze, correct?
11 A. **That is correct.**
12 Q. The next bullet is "Increasing" the
13 "speed at which new products can be introduced, due
14 to Blaze Advisor's agility," correct?
15 A. **Correct.**
16 Q. Same question. I take it you do not
17 know whether Federal increased the speed at which
18 new products were introduced due to Blaze Advisor,
19 correct?
20 A. **Correct, with the caveat of there is**
21 **one artifact, there is one point made in multiple**
22 **artifacts that they improved the speed of**
23 **implementing rules, either new rules or modifications**
24 **to existing rules, from three to six months to two**
25 **to three days.**

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1 to Blaze Advisor?
2 A. **It is fair to say that I don't**
3 **remember the number of the artifacts. So I can't**
4 **tell you where the cit -- whether the citations are**
5 **related to that or something else.**
6 Q. So you just don't know?
7 A. **Correct.**
8 Q. The next bullet is "Increasing speed
9 at which product changes involving product and
10 underwriting rules can be implemented, due to Blaze
11 Advisor's agility," correct?
12 A. **Correct.**
13 Q. Is it true that you do not know
14 whether Federal increased the speed at which
15 product changes involving product underwriting
16 rules can be implemented due to Blaze Advisor's
17 agility?
18 A. **I made no quantitative analysis in any**
19 **of the deployments. There are artifacts that refer**
20 **to writing rules faster and implementing regulatory**
21 **changes in less time period.**
22 Q. But you do not know whether Federal
23 actually increased the speed at which product
24 changes involving product and underwriting rules
25 were implemented?

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<p>1 A. Agree.</p> <p>2 Q. The next bullet is "Increasing" the</p> <p>3 "speed to market by ensuring compliance with</p> <p>4 corporate and statutory reporting requirements,"</p> <p>5 correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Is it true that you do not know</p> <p>8 whether Federal increased its speed to market by</p> <p>9 ensuring compliance with corporate and statutory</p> <p>10 reporting requirements?</p> <p>11 A. Yes.</p> <p>12 Q. The next bullet is "Increasing the</p> <p>13 precision and accuracy of a quote, thereby</p> <p>14 increasing the" profitability of the quote offer</p> <p>15 will be --</p> <p>16 A. Probability.</p> <p>17 Q. I'm sorry. Thank you. "...the</p> <p>18 probability the quote offer will be accepted"?</p> <p>19 A. Agree.</p> <p>20 Q. And is it true that you do not know</p> <p>21 whether Federal increased the precision and</p> <p>22 accuracy of its quotes, thereby increasing the</p> <p>23 probability of the quote offer was accepted?</p> <p>24 A. Yes.</p> <p>25 Q. The next bullet is "Increasing the</p>	<p>1 not know whether Federal increased the ease of use</p> <p>2 for agents and brokers by way of those three bullet</p> <p>3 points underneath?</p> <p>4 A. You are correct.</p> <p>5 MR. HINDERAKER: Are you done with</p> <p>6 this -- are you done with this line?</p> <p>7 MS. JANUS: Sure.</p> <p>8 MR. HINDERAKER: I mean, I don't</p> <p>9 want --</p> <p>10 MS. JANUS: Yeah, no.</p> <p>11 MR. HINDERAKER: I don't want to take</p> <p>12 a break if you're in the midst of --</p> <p>13 MS. JANUS: A break is fine.</p> <p>14 THE VIDEOGRAPHER: Going off the</p> <p>15 record. The time is 1:28 p.m.</p> <p>16 (Break from 1:28 to 1:37.)</p> <p>17 THE VIDEOGRAPHER: We're back on the</p> <p>18 record. The time is 1:37 p.m.</p> <p>19 BY MS. JANUS:</p> <p>20 Q. Moving on in your report to page 13.</p> <p>21 A. I'm there.</p> <p>22 (Whereupon, Deposition Exhibit No. 519</p> <p>23 was marked for identification, and a copy is</p> <p>24 attached and hereby made a part of this deposition.)</p> <p>25 BY MS. JANUS:</p>
<p>Page 139</p> <p>1 precision and adequacy of a renewal offer, thereby</p> <p>2 increasing the probability" that "the renewal...will</p> <p>3 be accepted," correct?</p> <p>4 A. Correct.</p> <p>5 Q. Is it true that you do not know</p> <p>6 whether Federal increased the precision and</p> <p>7 accurate -- adequacy of renewal offers, thereby</p> <p>8 increasing the probability the renewal offers would</p> <p>9 be accepted?</p> <p>10 A. I prefer the statement I do not have</p> <p>11 any quantitative information that Federal did or</p> <p>12 did not increase the stated attributes.</p> <p>13 Q. Okay.</p> <p>14 A. So --</p> <p>15 Q. But -- and so I guess --</p> <p>16 A. So -- so I think the answer to your</p> <p>17 question is yes.</p> <p>18 Q. Okay. You do not know?</p> <p>19 A. I do not know.</p> <p>20 Q. The next bullet in "Increasing the</p> <p>21 ease of use for agents and brokers," and then you</p> <p>22 list three ways in which the ease of use for agents</p> <p>23 and brokers is increased, correct?</p> <p>24 A. I do.</p> <p>25 Q. And is it correct to say that you do</p>	<p>Page 141</p> <p>1 Q. Showing you what's been marked as</p> <p>2 Exhibit 519, this is the document that you rely</p> <p>3 upon for your conclusions in paragraph 30 of the</p> <p>4 report, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And this appears to be a draft of a</p> <p>7 request -- RFI, correct, request for information?</p> <p>8 A. Yes, although Chubb & Sons mixes their</p> <p>9 nomenclature. They -- they refer to it both as an</p> <p>10 RFP, a request for proposal, and an RFI, request</p> <p>11 for information.</p> <p>12 Q. Okay.</p> <p>13 A. But the fundamental answer is yes.</p> <p>14 Q. Okay. So this is the document that</p> <p>15 you've relied upon for your conclusion in</p> <p>16 paragraph 30, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Do you know whether this is the final</p> <p>19 RFI?</p> <p>20 A. I do not. I know that this is the</p> <p>21 artifact that I was provided.</p> <p>22 Q. Fair to say that the statements in the</p> <p>23 RFI are forward-looking?</p> <p>24 A. Fair to say that the statements in the</p> <p>25 RFI are forward-looking in that Chubb & Sons offer</p> <p>Page 142</p>

<p>1 of the RFI were looking to increase their 2 functionality relative to the points in the RFI. 3 Q. It was an aspirational document? 4 A. I'm uncomfortable with the word 5 aspirational. Is a we're going to make a decision, 6 give me information so we can decide whether to 7 include you in the decision analysis or not. 8 Q. The document is not specific to Blaze, 9 correct? 10 A. That is correct, from the perspective 11 of they would have sent this document to multiple -- 12 pardon me, excuse me, multiple software providers 13 requesting those software providers provide them 14 information that they would take through a decision 15 management process to say I -- I -- I want to talk 16 to these people, that people. It's that kind of 17 document. It's not specific to Blaze, it's specific 18 to the decision about what software are we going to 19 license. 20 Q. In paragraph 31 -- 21 A. My document? 22 Q. Yes. 23 A. Okay. 24 Q. Of your report. 25 A. Thank you.</p>	<p>1 Q. Correct. 2 A. Yes. 3 Q. Okay. And that's a FICO marketing 4 PowerPoint slide, correct? 5 A. Correct. 6 Q. You do not cite to any facts to 7 support the statements you make in paragraph 32 of 8 your report, correct? 9 A. I'm sorry, your question is I do not 10 cite to anything? 11 Q. Correct. 12 A. That is correct. 13 Q. The next section of your report is 14 Chubb's Use of Blaze Advisor Contributes to Gross 15 Written Premium, correct? 16 A. Section VII, correct. 17 Q. In forming any of the opinions you 18 reached in this case, did you conduct a comparison 19 between the functionalities of Blaze compared to 20 other competing business rules management software? 21 A. In the preparing of my report, I 22 provided a qualitative value of automated 23 decisions. How Blaze fit into that, I did no 24 quantitative research at all, and I did not look at 25 any other potential decision management softwares.</p>
<p>1 Q. You -- the last sentence states, 2 "Chubb needed automated decision management software 3 that would allow Chubb to scale its business so it 4 could take on...new revenue streams," correct? 5 A. Correct. 6 Q. And you cite to the deposition of 7 Mr. Wachs, correct? 8 A. That is correct. 9 Q. And Mr. Wachs was a FICO employee, 10 correct? 11 A. Correct. 12 Q. Mr. Wachs was employed at FICO through 13 the end of 2008, correct? 14 A. I cannot speak to that. 15 Q. Okay. You don't recall his deposition 16 testimony about the length of his employment at 17 FICO? 18 A. No. 19 Q. And you also cite to the document 20 we've marked as Exhibit 516, correct? 21 A. Six -- nineteen, sixteen, sixteen? I 22 do. 23 Q. And, again, that is you cite to 24 page 16 of Exhibit 516? 25 A. I'm sorry, page 16?</p>	<p>1 Q. Do you know whether there are 2 competing decision management softwares that 3 Federal could have used instead of Blaze that would 4 provide the same functionality Blaze does? 5 A. I can say yes to that inside of the 6 caveat that the RFI I'm sure went to more than 7 FICO, because if it didn't there would have been no 8 purpose for the RFI. 9 Q. Okay. Other than the RFI going to 10 other software providers, do you have any knowledge 11 of the functionality that any competing rules 12 management softwares provide? 13 A. I cite to the Forrester Research 14 industry analysts group's new wave of 15 decision-making that articulates, I believe, but 16 won't swear to, ten different providers of decision 17 management software. 18 Q. So it's fair to say that Federal could 19 use another decision management software to perform 20 the functions that Blaze performs at this point? 21 A. I prefer to say that it is fair to say 22 that any of the software providers of decision 23 management software that responded to the RFI 24 could, in fact, have won that request for proposal, 25 request for information, but the fact remains FICO</p>

<p>1 doing business, and establishing the adequate 2 accurate price point. You can't call those in the 3 insurance process small, because the rate, the 4 quote, the bind, the book, and the issue processes 5 do not work unless that's done.</p> <p>6 Q. How have you attributed speed to Blaze 7 specifically within the complex application that is 8 CSI Express?</p> <p>9 A. If -- I have done no level of 10 quantitative work. So you're asking me to provide 11 you my thoughts on did it make it better by one 12 day, by two days, by three days? I can't provide 13 you that. That was out of the scope of my work.</p> <p>14 Q. I take it, then, you also don't know 15 whether Blaze specifically versus some other 16 technology within CSI Express contributes to the 17 speed that you've opined CSI Express delivers, 18 correct?</p> <p>19 A. If I took the architectural footprint, 20 which you've referenced several times, there are -- 21 pardon me -- components of the architectural process 22 that contribute to that rate. A -- a system does 23 two times three much faster than a human being does 24 two times three and with an incredibly higher 25 accuracy rate. But you -- you -- you do not --</p>	<p>1 attribute to CSI Express results from the fact that 2 Blaze Advisor is in CSI Express or from other 3 technologies and functionalities that are in CSI 4 Express, correct?</p> <p>5 A. That is correct. I have done no --</p> <p>6 Q. You've answered the question.</p> <p>7 A. -- quanti --</p> <p>8 Q. Go ahead.</p> <p>9 MR. HINDERAKER: You may finish your 10 answer.</p> <p>11 THE WITNESS: I have repeatedly said I 12 did zero quantification assessment of this situation.</p> <p>13 BY MS. JANUS:</p> <p>14 Q. In fact, you do not know whether CSI 15 Express actually increased the speed of response to 16 requests for quote at Federal, correct?</p> <p>17 A. That is correct. That would require 18 data.</p> <p>19 Q. In your mind, would it be even 20 possible to measure the contribution that Blaze has 21 to the speed that you've discussed CSI Express 22 creating?</p> <p>23 A. Having had the privilege of giving 24 that question zero thought, I can't answer it.</p> <p>25 That --</p>
<p>1 it's a Rubik's Cube, as I said earlier. You don't 2 sit down and look at components of the software and 3 say this component makes this happen or that happen. 4 It performs a function.</p> <p>5 The functions that Blaze Advisor 6 specifically -- I would say -- if I were talking 7 about any of the ten, whose names I don't know or 8 remember, decision management systems that Forester 9 Research included in their report, all of those are 10 designed to improve the quote, bind, book, issue 11 process, which is critical to the accumulation of 12 written premium. If you quote and don't convert -- 13 and I don't know what these numbers are, but 14 Federal has a quote number coming in, I don't know 15 what that number is, Federal has a quote converted 16 to policy number, I don't know what that number is, 17 but there is a direct link between those three 18 items. You can talk to almost any insurance 19 executive, I quoted Mark Watson of Argo, a couple 20 of other people, about their view of the need to 21 make these kind of advancements in use of 22 technology to accelerate and execute the quote, 23 bind, book, issue process.</p> <p>24 Q. My question was, you did not do an 25 analysis to determine whether the speed that you</p>	<p>1 Q. So you --</p> <p>2 A. That --</p> <p>3 Q. -- just don't --</p> <p>4 A. That requires thought.</p> <p>5 Q. So you just don't know whether it 6 would be possible -- possible to measure that?</p> <p>7 MR. HINDERAKER: Misstates -- 8 objection, misstates the answer.</p> <p>9 BY MS. JANUS:</p> <p>10 Q. Is that correct?</p> <p>11 A. I have zero data and I have not spent 12 one minute thinking about how I would do that. 13 I -- I live in a world where most things are 14 possible. The question is what does it take to get 15 it done.</p> <p>16 (Whereupon, Deposition Exhibit No. 520 17 was marked for identification, and a copy is 18 attached and hereby made a part of this deposition.)</p> <p>19 BY MS. JANUS:</p> <p>20 Q. Showing you what's been marked as 21 Exhibit 520, this is the CSI Express component view 22 that was contained in Mr. McCarter's report.</p> <p>23 A. Yes, from Mr. McCarter's report.</p> <p>24 Q. Do you agree with me based on this 25 component view that CSI Express is a complex</p>

1 application involving many technologies? 2 A. Yes. 3 Q. Do you know what all of the various 4 components that are depicted in this chart do in 5 CSI Express? 6 A. All? 7 Q. Yes. 8 A. No. Some of the -- some of their 9 acronyms, I don't even know what they mean. 10 Q. Do you know what each of these 11 components contributes to what you have opined are 12 the benefits of CSI Express? 13 A. I'm not sure I opined that C -- that 14 anything other than Blaze Advisor provided benefits 15 to CIS. So as relates to this current state 16 exhibit, CI -- Blaze Advisor inside of CIS Express 17 contributes to the benefits I articulate, but I 18 can't speak to any of the other systems. 19 I can -- I can tell you generally 20 speaking in the insurance industry what an under 21 man -- underwriting manager workbench does, I can 22 tell you what product configuration does, but I can't 23 answer the specific question you're asking. 24 Q. Turning back to your report, in 25 paragraph 36?	1 contributes to revenue on general goals of 2 insurance companies in the industry? 3 A. Not exactly. I am basing my opinion 4 on the fact that every insurance company that I've 5 ever talked with is focused on that quote, bind, 6 book, issue process for new business and for 7 renewals, and that Blaze Advisor contributes to 8 getting responses inside of the quote process faster, 9 contributes to getting accurate adequate premium 10 faster, it contributes to easing the burden on the 11 independent agent or broker, meaning ease of doing 12 business, and it contributes to the relative 13 adequacy and acc -- attaining the adequate and 14 accurate premium. 15 Q. And -- but you did not actually 16 analyze whether it did contribute to those things 17 you've just listed at Federal, correct? 18 A. I did no quantification, that is 19 correct. 20 Q. Do you know whether Blaze Advisor 21 actually increased or decreased the revenues of 22 Federal? 23 A. I have done no quantification. 24 Q. I take it you don't know whether Blaze 25 Advisor actually contributed to an increase in
Page 155 1 A. I'm there, I'm there. 2 Q. You state that "CSI eXPRESS's use of 3 Blaze Advisor contributes to revenue by increasing 4 the speed of response to a request for a quote 5 and...speed of making renewal offers," correct? 6 A. I do. 7 Q. And we've discussed that you don't 8 actually know whether the speed of response was 9 increased, correct -- at Federal, I should say? 10 A. I have no quantification. 11 Q. You don't know whether the speed of 12 making renewal offers was increased, correct? 13 A. I have no quantification. 14 Q. How have you concluded that CSI 15 Express's use of Blaze Advisor contributes to 16 revenue? 17 A. So I go back to my three original 18 points. There -- insurance companies try to improve 19 their positions in getting more quotes, converting 20 more quotes, hanging on to more renewals through 21 three fundamental strategies: speed -- that's both 22 speed of response and speed to market -- ease of 23 doing business, and adequate accurate pricing. 24 Q. Okay. And so you're basing your 25 opinion that CSI Express's use of Blaze Advisor	Page 157 1 revenue or profit at Federal, correct? 2 A. That would require a quantification. 3 I have done no quantification, no. 4 Q. You do not cite to any authority in 5 paragraph 36, correct? 6 A. That is correct. 7 Q. And -- 8 A. So -- so when I don't cite, you should 9 assume that I am relying on 41 years and a lot of 10 gray hair in this business. 11 Q. So your opinion in paragraph 36 is 12 based upon your experience in the industry? 13 A. And conversations at industry 14 conferences with other insurance executives, and 15 conversations at industry conferences with software 16 vendors. 17 Q. Those are conversations you had in 18 connection with authoring your report? 19 A. No. 20 Q. Are those conversations you had about 21 Blaze Advisor? 22 A. Conversations I had -- no. I -- 23 conversations I generally have making sure that I 24 keep my mind aware of what's going on in the 25 insurance industry. I have not discussed Blaze

<p>1 Advisor with any other insurance or vendor personnel. 2 Q. Are those conversations that you had 3 about Federal or Chubb? 4 A. No. 5 Q. Paragraph 37 -- oh, one other question. 6 In paragraph 36 you state, "CSI eXPRESS's use of 7 Blaze Advisor contributes to revenue," correct? 8 A. I do. 9 Q. Do you mean to say CSI Express 10 contributes to revenue? 11 A. I do not. 12 Q. How does CSI Express's use of Blaze 13 Advisor contribute to revenue? 14 A. This goes back to the quote, bind, 15 book, issue process for a new business. Okay. 16 CSI Express uses Blaze Advisor to make decisions on 17 what are acceptable risk attributes as it respects 18 Federal's risk appetite. Blaze Advisor contributes 19 to the adequate -- the calculation of adequate 20 accurate premium, and Blaze Advisor where deployed 21 this way says, yes, we'll write this policy, no, 22 we'll write this policy, and sends the instructions 23 for a quote letter to go out. There is a direct 24 connection between Blaze Advisor's operation inside 25 of CSI Express and the quote, bind, book, issue</p>	<p>1 executed by their people, but in some instances 2 they are executed by an automated decision system, 3 in this case, Blaze Advisor. 4 Q. You said that the effect is an 5 acceleration and less effort. Those are 6 efficiencies, you'd agree with me on that, right? 7 A. I agree that less effort is an 8 efficiency, but I don't think efficiency and impact 9 to revenue are unrelated. In fact, I think they're 10 very related. 11 Q. Paragraph 37, once again, you do not 12 cite to any authority for the conclusions you reach 13 in that paragraph, correct? 14 A. That is correct. 15 Q. Is that paragraph based solely on your 16 experience in the industry? 17 A. And the conversations I have had with 18 other insurance executives and with software vendors 19 about their sales and marketing approach for the 20 industry. 21 Q. When did you have those conversations? 22 A. Pick a time across the last 20 years 23 and you can plug that date in. 24 Q. Okay. So how is that different from 25 your experience in the insurance industry?</p>
<p>Page 159</p> <p>1 process of a property casualty insurance company. 2 Q. And you say that it uses Blaze Advisor 3 to make decisions, but those decisions are actually 4 made using the rules that the -- that the company, 5 Federal, has defined using its expertise, correct? 6 A. I disagree with that statement. The 7 decisions -- in my mind, there's a difference 8 between the definition of the rule, transferring 9 that rule into the technology, and, then, the 10 execution of the rule. 11 So as long as an automated decision 12 system is executing that rule, which is Blaze 13 Advisor, you are accelerating the process, you are 14 requiring less effort on behalf of your underwriters 15 and your agents, and you are approaching the best 16 possible price point, the adequacy and accuracy of 17 premium for the defined risk characteristics. 18 Q. But you're using the rules that the 19 business has generated through its expertise, 20 correct? 21 A. I agree that the rules are authored by 22 the underwriting function of the company, they are 23 not necessarily executed by the underwriting 24 function of the company. In some instances inside 25 of Chubb their underwriting rules are, in fact,</p>	<p>Page 161</p> <p>1 A. It's not. 2 Q. Okay. 3 A. But -- 4 Q. So those -- 5 A. But -- 6 Q. -- are conver -- sorry. 7 A. But -- but the -- the statement my 8 experience in the insurance industry apply -- 9 implies I am operating in isolation. I want the 10 record to show, no, I -- I talk -- I attend the 11 IA -- I have attended the ISA, I've attended the 12 ACORD. I'm dropping a lot of things you don't 13 understand. I'll be happy to explain them. 14 But there are gatherings of the 15 industry, and there are conversations that happen 16 between executives of insurance industry, and I 17 don't want that to be missed. I don't want the 18 record to think that I am relying solely on the -- 19 the thought process of Bick Whitener. I'm talking 20 to other people, not specifically about Blaze 21 Advisor, not specifically about Federal, but about 22 the insurance industry and the execution of our 23 processes, including the quote, bind, book, issue 24 process. 25 Q. And those conversations were not</p>